

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7496

BILL NUMBER: SB 445

NOTE PREPARED: Feb 23, 2009

BILL AMENDED: Feb 23, 2009

SUBJECT: Intimidation.

FIRST AUTHOR: Sen. Delph

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

It provides that a person commits intimidation if the person threatens the spouse, child, parent, or sibling of another person. (Under current law, a person commits intimidation only if the person threatens another person, or the spouse or child of a witness.)

It defines "threat" to include an intention to unlawfully disclose the immigration status of a person.

It enhances intimidation to a Class D felony if the victim is: (1) an employee of a prosecuting attorney; (2) a public defender; or (3) an employee of a public defender or a public defender agency.

It enhances intimidation to a Class C felony if the person threatens to commit a forcible felony against a witness in a criminal prosecution if the threat is intended to alter or prevent the witness's testimony, or to retaliate against the witness for serving as a witness.

It also enhances intimidation to a Class C felony if the person causes bodily injury to a witness in a criminal investigation, and to a Class B felony if the person causes serious bodily injury to a witness in a criminal investigation.

Effective Date: July 1, 2009.

Explanation of State Expenditures: (Revised) *Summary-* The bill could increase the number of offenders convicted of intimidation by including communications intended to intimidate the spouse, child, parent, or

sibling of the person; by adding certain court officers; by applying the offense to all witness in criminal actions, not just pending actions; and by adding new elements of the crime. Intimidation is a Class A misdemeanor, but may be enhanced to a Class C or Class D felony in certain circumstances. Under the bill, additional elements are included in the enhanced penalties and a Class B felony enhancement is added. State expenditures could increase if an offender is incarcerated in a state prison rather than in a local jail or if an offender is incarcerated in a state prison for a longer period of time.

More offenders could mean increased costs to the Department of Correction (DOC). The average expenditure to house an adult offender was \$20,287 in FY 2008. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost per offender for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily. The estimated average cost of housing a juvenile in a state juvenile facility was \$69,223.

The average length of stay in DOC facilities for all Class D felony offenders is approximately ten months and for all Class C felony offenders is approximately two years. Sentencing information of the various felony penalties involved is provided in the table below.

Felony Class	Minimum	Advisory	Maximum
B	6 years	10 years	20 years
C	2 years	4 years	8 years
D	six months	1.5 years	3 years

Background— For CY 2008, the number of offenders who were committed to DOC for Class C and D intimidation are shown in the following table.

Offenders Committed to DOC in CY 2008 for Intimidation	
Felony Class	Offenders
Class C	37
Class D	101
Grand Total	138

Explanation of State Revenues: If more offenders are convicted of intimidation for the underlying offense, or more offenders are convicted of one of the enhanced penalties rather than the underlying offense, more revenue to the Common School Fund could be collected if a criminal fine is assessed by the sentencing court. The maximum fine for a Class A misdemeanor is \$5,000, while the maximum fine for a Class B, Class C, or Class D felony is \$10,000. Fine revenue remains unchanged if an offender who would have otherwise been convicted of one of the enhanced penalties, is convicted of a different enhanced penalty.

Court fees for both misdemeanors and felonies are \$120.

Explanation of Local Expenditures: If more offenders are convicted of a Class A misdemeanor, more offenders may be sentenced to a term of incarceration in a county jail. The maximum term of imprisonment

for a Class A misdemeanor is one year. However, if more offenders are convicted of the enhanced felony crimes rather than the underlying misdemeanor, offenders would be sentenced to a state correctional facility rather than a term of incarceration in a county jail. The average daily cost to incarcerate a prisoner in a county jail is roughly \$44.

Explanation of Local Revenues: Court fees for both misdemeanors and felonies are \$120.

State Agencies Affected: DOC.

Local Agencies Affected: Trial courts; local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association.

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